

ORDINANCE NO. 2995-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE LEVYING SPECIAL TAXES WITHIN THE CITY OF SUNNYVALE COMMUNITY FACILITIES DISTRICT NO. 3 (ESTATES AT SUNNYVALE)

THE CITY COUNCIL OF THE CITY OF SUNNYVALE HEREBY RESOLVES,
DETERMINES, AND ORDERS AS FOLLOWS:

1. Authority; Resolution of Intention. On March 19, 2013, this City Council adopted its Resolution No. 567-13 entitled "Resolution of the City Council of the City of Sunnyvale of Intention to Establish Community Facilities District" (the "Resolution of Intention"), stating its intention to form the "City of Sunnyvale Community Facilities District No. 3 (Estates at Sunnyvale)" (the "CFD"), under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code.

2. Public Hearing. On April 23, 2013, this City Council held noticed public hearings as required by the Act and the Resolution of Intention relative to the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax to be levied within the CFD to finance the costs of the public services within the CFD. At the public hearings, all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of the special taxes were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held.

3. Subsequent Resolutions. On April 23, 2013, following the public hearing, this City Council adopted the following resolutions: a resolution entitled "Resolution of the City Council of the City of Sunnyvale, Formation of Community Facilities District" (the "Resolution of Formation"), which established the CFD and defined the public services to be funded by the CFD (the "Services"); and a resolution entitled "Resolution of the City Council of the City of Sunnyvale Calling Special Election" (the "Election Resolution") submitting the propositions of the levy of the special tax and the approval of an annual appropriations limit of not to exceed \$100,000,000, to the qualified electors of the CFD as required by the Act.

4. Special Election. Pursuant to the Election Resolution, on April 23, 2013, a special election was held within the CFD at which the eligible landowner electors approved such propositions by the two-thirds vote required by the Act.

5. Levy of Special Taxes. By the passage of this Ordinance this City Council hereby authorizes and levies special taxes within the CFD pursuant to the Act, at the rate and in accordance with the formula (the "Rate and Method") set forth in the Resolution of Formation, which is by this reference incorporated herein. The special taxes are hereby levied starting in Fiscal Year 2013-14 and continuing until a notice of cessation is recorded.

6. Determination of Special Tax Rate. The Director of Finance is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation and the Rate and Method.

7. Exemption from Special Taxes. Except as may otherwise be provided by law or by the Rate and Method, properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Resolution of Formation and the Rate and Method.

8. Use of Special Tax Collections. All of the collections of the special tax shall be used as provided for in the Act and in the Resolution of Formation including, but not limited to, the payment of the costs of the Services, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the special tax.

9. Manner of Collection. The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Director of Finance is hereby authorized to collect the special taxes by other appropriate methods of collection, including direct billing to the affected property owners at such intervals deemed appropriate.

10. Severability. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the CFD shall not be affected.

11. Execution and Publication. The Mayor shall sign this Ordinance and the City Clerk shall cause this Ordinance to be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the City.

12. Effective Date. This Ordinance shall take effect 30 days from the date of final passage.

Introduced at a regular meeting of the City Council held on April 23, 2013 and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2013 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____
(SEAL)

Mayor

APPROVED AS TO FORM:

Joan A. Borger, City Attorney